

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 601, the previous question is ordered.

The question is on the motion offered by the gentleman from Oregon (Mr. DEFAZIO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GRAVES of Missouri. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which the yeas and nays are ordered.

The House will resume proceedings on postponed questions at a later time.

ELIMINATING A QUANTIFIABLY UNJUST APPLICATION OF THE LAW ACT OF 2021

Mr. NADLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1693) to eliminate the disparity in sentencing for cocaine offenses, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Eliminating a Quantifiably Unjust Application of the Law Act of 2021” or the “EQUAL Act of 2021”.

SEC. 2. ELIMINATION OF INCREASED PENALTIES FOR COCAINE OFFENSES WHERE THE COCAINE INVOLVED IS COCAINE BASE.

(a) CONTROLLED SUBSTANCES ACT.—The following provisions of the Controlled Substances Act (21 U.S.C. 801 et seq.) are repealed:

(1) Clause (iii) of section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)).

(2) Clause (iii) of section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)).

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—The following provisions of the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) are repealed:

(1) Subparagraph (C) of section 1010(b)(1) (21 U.S.C. 960(b)(1)).

(2) Subparagraph (C) of section 1010(b)(2) (21 U.S.C. 960(b)(2)).

(c) APPLICABILITY TO PENDING AND PAST CASES.—

(1) PENDING CASES.—This section, and the amendments made by this section, shall apply to any sentence imposed after the date of enactment of this Act, regardless of when the offense was committed.

(2) PAST CASES.—

(A) IN GENERAL.—In the case of a defendant who, on or before the date of enactment of

this Act, was sentenced for a Federal offense described in subparagraph (B), the sentencing court may, on motion of the defendant, the Bureau of Prisons, the attorney for the Government, or on its own motion, impose a reduced sentence after considering the factors set forth in section 3553(a) of title 18, United States Code.

(B) FEDERAL OFFENSE DESCRIBED.—A Federal offense described in this subparagraph is an offense that involves cocaine base that is an offense under one of the following:

(i) Section 401 of the Controlled Substances Act (21 U.S.C. 841).

(ii) Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960).

(iii) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)).

(iv) Any other Federal criminal offense, the conduct or penalties for which were established by reference to a provision described in clause (i), (ii), or (iii).

(C) DEFENDANT NOT REQUIRED TO BE PRESENT.—Notwithstanding Rule 43 of the Federal Rules of Criminal Procedure, the defendant is not required to be present at any hearing on whether to impose a reduced sentence pursuant to this paragraph.

(D) NO REDUCTION FOR PREVIOUSLY REDUCED SENTENCES.—A court may not consider a motion made under this paragraph to reduce a sentence if the sentence was previously imposed or previously reduced in accordance with this Act.

(E) NO REQUIREMENT TO REDUCE SENTENCE.—Nothing in this paragraph may be construed to require a court to reduce a sentence pursuant to this paragraph.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. NADLER) and the gentleman from Texas (Mr. GOHMERT) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 1693.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1693, the Eliminating a Quantifiably Unjust Application of the Law Act of 2021, or the EQUAL Act, would eliminate the unjust sentencing disparity between crack cocaine and powder cocaine offenses.

This long overdue bipartisan legislation would allow defendants who were previously convicted or sentenced for a Federal offense involving crack cocaine to petition for a sentence reduction.

In 1986, Congress passed the Anti-Drug Abuse Act, which created manda-

tory minimum penalties for drug offenses and introduced the 100:1 sentencing disparity between crack cocaine and powder cocaine offenses. This meant that a person who distributed 5 grams of crack cocaine received the same 5-year mandatory minimum sentence as a person who distributed 500 grams of the powder cocaine.

A person who distributed 50 grams of crack cocaine received the same 10-year mandatory minimum sentence as a person who distributed 5,000 grams of powder cocaine. It soon became evident that this sentencing disparity also created a significant racial disparity.

Mr. Speaker, 4 years after Congress passed the Anti-Drug Abuse Act, the average Federal sentence for Black defendants was 49 percent higher than the average sentence for White defendants. In the ensuing decades, the Sentencing Commission and many members of the law enforcement community strongly and repeatedly criticized the 100:1 ratio and urged Congress to address the disparity.

As early as 1995, the Sentencing Commission began urging Congress to rectify this unfairness. Besides the troubling racial disparities in sentencing, the Commission also expressed concern over the significant differences in punishment between street-level dealers of crack cocaine and the powder cocaine suppliers who sold the cocaine in the first instance.

Unfortunately, Congress failed to act on the Commission's proposed amendment to the sentencing guidelines to equalize the penalties for crack and powder cocaine.

From 1997 to 2007, the Commission continued to warn Congress about the unjustified ratio, noting that “there is no legislative history that explains Congress’ rationale for selecting the 100:1 drug quantity ratio for powder cocaine and crack offenses.” It provided evidence for its findings that the penalties exaggerated the relative harmfulness of crack cocaine, swept too broadly, most often applied to lower-level offenders, and mostly impacted communities of color.

Congress, however, took no action, prompting the Commission to pass an amendment to the sentencing guidelines in 2007 as a partial and modest remedy to the “urgent and compelling” problems associated with the ratio. In doing so, the Commission “unanimously and strongly urged” Congress to take actions on its recommendations and to provide a comprehensive solution.

In 2010, Congress finally acted by passing the Fair Sentencing Act, which did not eliminate the disparity, but which significantly reduced the ratio from 100:1 to 18:1. But the Fair Sentencing Act applied only to pending and future cases, leaving thousands of incarcerated people without a path to petition for relief. The First Step Act of 2018 made the Fair Sentencing Act retroactive, providing a pathway to relief for some, but not all, individuals affected by the sentencing disparity.